

TRINITY COUNTY PLANNING COMMISSION

STAFF REPORT

PROJECT TITLE: Initial Commercial Cannabis Cultivation Variance (CCL729)

APPLICANT / PROPERTY OWNER: Anastasia Romanova

REPORT BY: Bella Hedtke – Associate Planner, Cannabis Division & Environmental Compliance Specialist, Aida Tavakoli

LOCATION: 3191 State Highway 3, Hayfork, CA 96041 (APN 016-200-035-000)

ZONING DISTRICT: Agricultural 10-Acre Min (A10)

ZONING OVERLAY DISTRICT(S): Critical Water Resources (CWR)

GENERAL PLAN DESIGNATION: Agricultural (A)

PROJECT DESCRIPTION: An initial commercial cannabis cultivation request of the Planning Commission to reduce the required 350-foot cultivation setback from neighboring residential structures, pursuant to Trinity County Code Section 17.43.050A(8). The proposed cultivation project includes the cultivation of up to 10,000 SF of small mixed-light cannabis cultivation. Cannabis cultivation activities will occur in four (4) proposed 30’x110’ temporary hoop houses for mature canopy, approximately 560 SF of the southern hoop house will be designated for immature canopy, and a proposed 30’x50’ temporary hoop house for immature canopy. Installation of proposed structures will not require grading or clearing of vegetation as it is a previously developed flat; assembly will be through hand tools. The project proposes to replace the temporary hoop houses with permitted greenhouses in the same footprint in the future; existing support infrastructure includes: a 20’x20’ garage for packaging, processing, and harvest storage. Water from the project will be through a permitted well; the project is connected to an electrical grid, Trinity PUD; and a permitted septic will serve as the project’s wastewater needs.

Location	Land Use	Zoning District	General Plan Designation
North	Assoc. Structures for Pending Commercial Cannabis Application (Same Applicant/Owner)	Agricultural 10-Acre Min (A10)	Agricultural (A)
South	Residential	Agricultural 10-Acre Min (A10)	Agricultural (A)
East	Residential	Agricultural 10-Acre Min (A10)	Agricultural (A)
West	Residential	Agricultural 10-Acre Min (A10)	Agricultural (A)

Table 1: Surrounding Land Uses to Project Site

PROJECT EVALUATION:

Project Consistency with the Trinity County Zoning Code

Trinity County Code Chapter 17.43 – Commercial Cannabis Cultivation Regulations

Trinity County Code Section 17.43.050 describes the locations and zoning districts where commercial cannabis is not allowed in the county. The Agricultural zoning district is not listed as a location that restricts commercial cannabis cultivation activities.

Within Section 17.43.050(A)(8), there are parameters given for cultivation variances:

“For specialty cottage, specialty and small licenses cultivation shall not be allowed within three hundred fifty feet of a residential structure on any adjoining parcels. For medium licenses, cultivation shall not be allowed within five hundred feet of an adjacent property line. Applications for a variance from this provision will be considered by the Trinity County Planning Commission. After obtaining an initial variance, the planning director can issue a director's use permit for subsequent years after an inspection.”

The parameters for cultivation area are described in Section 17.43.010 where cultivation is defined as “... the planting, growing, harvesting, drying, or processing of cannabis plants or any part thereof.”

The term variance used in this chapter “is defined as Trinity County Ordinance No. 315, Section 31.”

As the license is for small (up to 10,000 sf) mixed-light cultivation, it is required to have all cultivation activity be at least 350-feet from a residential structure on any adjoined parcel, unless a variance is obtained.

Site Inspections:

A site inspection was performed by County consultants Helix/LACO on May 19, 2022 to ensure that the site plan and project description included in the Appendix C were accurately prepared. A completeness review was performed by Cannabis Division staff on July 10, 2023. All deficiencies identified have been completed by the applicant. The site inspection and completeness review processes are designed to verify site and application compliance with Trinity County Code Chapter 17.43 (Commercial Cannabis Cultivation Regulations).

Furthermore, an inspection was performed on November 1st, 2023 to measure the distance, using a hand-held rangefinder, from the closest cultivation elements to the neighboring residential structure and take pictures of the site for consideration in this staff report. The closest cultivation related element on the site is a proposed hoop house positioned approximately 160ft from the residence on APN 016-200-041. Staff was not able to obtain a clear line-of-sight to measure the distance from the residence on APN 016-200-042-000 on the ground, therefore ArcGIS measures the closest cultivation related element at approximately 315ft (Attachment 2).

Project Consistency with the General Plan and Community Plan

The property is within an Agricultural (A) land use designation. The General Plan describes these areas as the following:

“Prime agriculture lands should be preserved for agricultural production. It is important that these areas be kept in acreage large enough to secure their economic viability. Single-family, rural housing and associated structures to adequately run the agricultural operation are allowed. Prime agricultural lands include prime soils or other lands that can be demonstrated to be good producing lands and are of a sufficient size to be economically viable. Minimum parcel size in this designation is ten acres for normal agricultural use. Lot sizes are large for agricultural Preserve zoned with the Agricultural designation. Agricultural preserve areas are so zoned to indicate those area that are recognized under the contract by Trinity County for agricultural preserves. The county should seek to encourage agricultural preserves for the continued production of food and fiber now and in the future. While 100 acres is required for contract status, Trinity County will consider smaller single ownership parcels of 40 acres or more when combined with other contiguous parcels adding up to 100 acres or more (County, Trinity County General Plan, Land Use Element, 1988).”

Furthermore, the Hayfork Community Plan describes these areas as the following:

“7. Salt Creek and Highway 3 South (Southern portion of Plan Area)

This area has historically been utilized for agriculture, timber production and (to a lesser degree) mining. At the time the first county general plan was adopted (1979) all of the land in this area was designated either Agriculture or Resource. This reflected the historic use, the actual and/or potential use of the land (either for timber or agriculture), the desire of area residents (for rural development, large parcel sizes and agricultural uses) and development limitations (including limited groundwater resources). This land use designation pattern (Agriculture and Resource only) is maintained in this plan and is consistent with policies that discourage residential land use designations in areas primarily suited for agricultural and resource production (County, Hayfork Community Plan, 1996)”

Given that the Agricultural land use designation is intended for parcels that would allow for agriculture uses, and given the existence of historic and active agricultural uses in the Salt Creek area, this proposed commercial cannabis license project, with applicable mitigation measures, is an appropriate activity for this land use designation per the Trinity County General Plan and Hayfork Community Plan.

Project Consistency with the California Environmental Quality Act (CEQA)

The proposed project is seeking a small mixed-light license with a residential setback reduction. A neighboring receptor identified approximately 160-feet south of the cultivation activities. Cannabis cultivation activities will occur in four (4) proposed 30'x110' temporary hoop houses for mature canopy, approximately 560 SF of the south hoop house will be designated for immature canopy, and a proposed 30'x50' temporary hoop house for immature canopy. Installation of proposed structures will not require grading or clearing of vegetation as it is a previously developed flat; assembly will be through hand tools. The project proposes to replace the temporary hoop houses with permitted greenhouses on the same footprint in the future; existing support infrastructure includes: a 20'x20' garage for packaging, processing, and harvest storage.

A light attenuation plan was prepared for the project that identified specific actions that will be taken to ensure no light will emanate from project parcel. A Noise Attenuation Plan was prepared to address if noise levels become a neighboring concern; and an Odor Control Plan was submitted to mitigate odor if they become a nuisance.

An Appendix C document was first submitted to the Cannabis Division for CCL 729 on November 29, 2021. Throughout the Appendix C review process, multiple incomplete letters were sent to the applicant and their agent, followed by various resubmittals of the Appendix C document. The County's contracted environmental consultant, LACO, prepared a compliance memorandum on April 19, 2023.

On May 16, 2023 the Board of Supervisors approved and adapted Resolution No. 2023-071 Commercial Cannabis Variance (CCV) renewal process. Variance Appendix C Policy Memo "Background and Guidance for the Implementation of Resolution No. 2023-071" was posted on the County website on May 26, 2023 to help facilitate applicants. As a result of the resolution, additional evaluation to Aesthetics, Air Quality, and Noise resource categories would be scoped into the applicant's environmental document to offset any potential negative impacts to neighboring receptors. On August 25, 2023 the County received an Appendix C resubmission that incorporated additional mitigation measures within their Appendix C. Environmental Review performed on August 28, 2023 identified a minor discrepancy within the document, and a resubmission was received on October 18, 2023. A final review performed by County environmental compliance staff, that determined that approval of this project is a "later activity" associated with the Cannabis Program EIR, as defined by subsection (c) of Section 15168, in that (i) all impacts associated with the approval of this project are within the scope of environmental review previously studied, and (ii) the requirements and mitigations required by Chapter 17.43 and 17.43G of the Trinity County Code, adequately serve to mitigate the impacts associated with approval of this project, it adequately evaluates all potential environmental impacts, and can be appropriately tiered within the Trinity County Cannabis Programmatic Environmental Impact Report. Based on the application review, site inspection and HELIX's review of the Appendix C, County environmental compliance staff recommended license approval to the planning director.

Trinity County Code Chapter 17.31 – Variances

Trinity County Code Section 17.31.010 states that, "A variance is a waiver or modification of some requirement contained in the zoning ordinance. The statutory justification for a variance is that the owner would otherwise suffer unique hardship under general zoning regulations because his or her particular parcel is different from others to which the regulation applies due to size, shape, or topography. Variances may be granted only to authorize a change in development standards which is not otherwise authorized by the zoning regulations."

In considering a variance, the following guidelines shall be observed:

1. **No Special Privilege.** A variance cannot be a special privilege extended to one individual property owner. The circumstances must be such that the same variance would be appropriate for any property owner facing similar circumstances.

Finding: The property has topographic constraints which would make it difficult for the applicant to develop outside of the required 350-ft residential setback. Primarily, the narrow shape and small size of the parcel does not lend for enough space for the site to comply with the 350-ft residential setback.

2. **Use Variance Prohibited.** The consideration of "use variances" is specifically prohibited. These are variances which request approval to locate a use in a zone from which it is prohibited by ordinance.

Finding: The granting of this variance does not create a "use variance" because commercial cultivation licenses are allowed in the A Zoning District.

3. **Disservice Not Permitted.** A variance must not be injurious to the public welfare, nor to adjacent properties.

Finding: In preparation of this staff report, a form was mailed to all adjacent property owners on August 25th, 2023 for neighbors to provide consent or opposition to the commercial cannabis variance (CCV) application request. Adjacent property owners within 300ft of the subject property were also notified of this public hearing via mail 10-days prior to this hearing. As of the date of this staff report, no responses were received from adjacent neighbors nor from the general public. Furthermore, the applicant submitted a consent letter with their variance application dated April 26, 2022 (Attachment 8). Therefore, it can be assumed that the granting of this CCV would not be injurious to the public welfare, nor to adjacent properties.

4. **Not Adverse to General of Specific Plan.** A variance must be in harmony with the general purpose and intent of the zoning ordinance and cannot adversely affect the general plan or specific plans of the county.

Finding: As discussed in this staff report, the project is found to be consistent with the General Plan and Hayfork Community Plan.

5. **RD-1 Overlay Zone.** Prior to approval of a variance for property within the RD-1 overlay zone, permission must be granted or deemed not necessary by the Secretary of Agriculture.

Finding: The project parcel is not located within an RD-1 overlay.

STAFF RECOMMENDATION:

Planning staff recommends that the Planning Commission moves to:

- A. Adopt Resolution PC 2023-14 subject to Exhibit A – Conditions of Approval to reduce the 350-foot setback requirement from the residence on APN 016-200-041-000 to approximately 160ft and from the residence on 016-200-042 to approximately 315ft, subject to the conditions set forth in Exhibit A.

ALTERNATIVES:

If the Planning Commission does not wish to approve the CCV, the following alternatives are available:

1. In the event that more information or time is required prior to the Planning Commission making a final decision on CCV-23-20, the Planning Commission could move to continue to a future certain meeting date.

2. The Planning Commission could deny the applicant's request for a CCV, with findings stated by the Planning Commission.

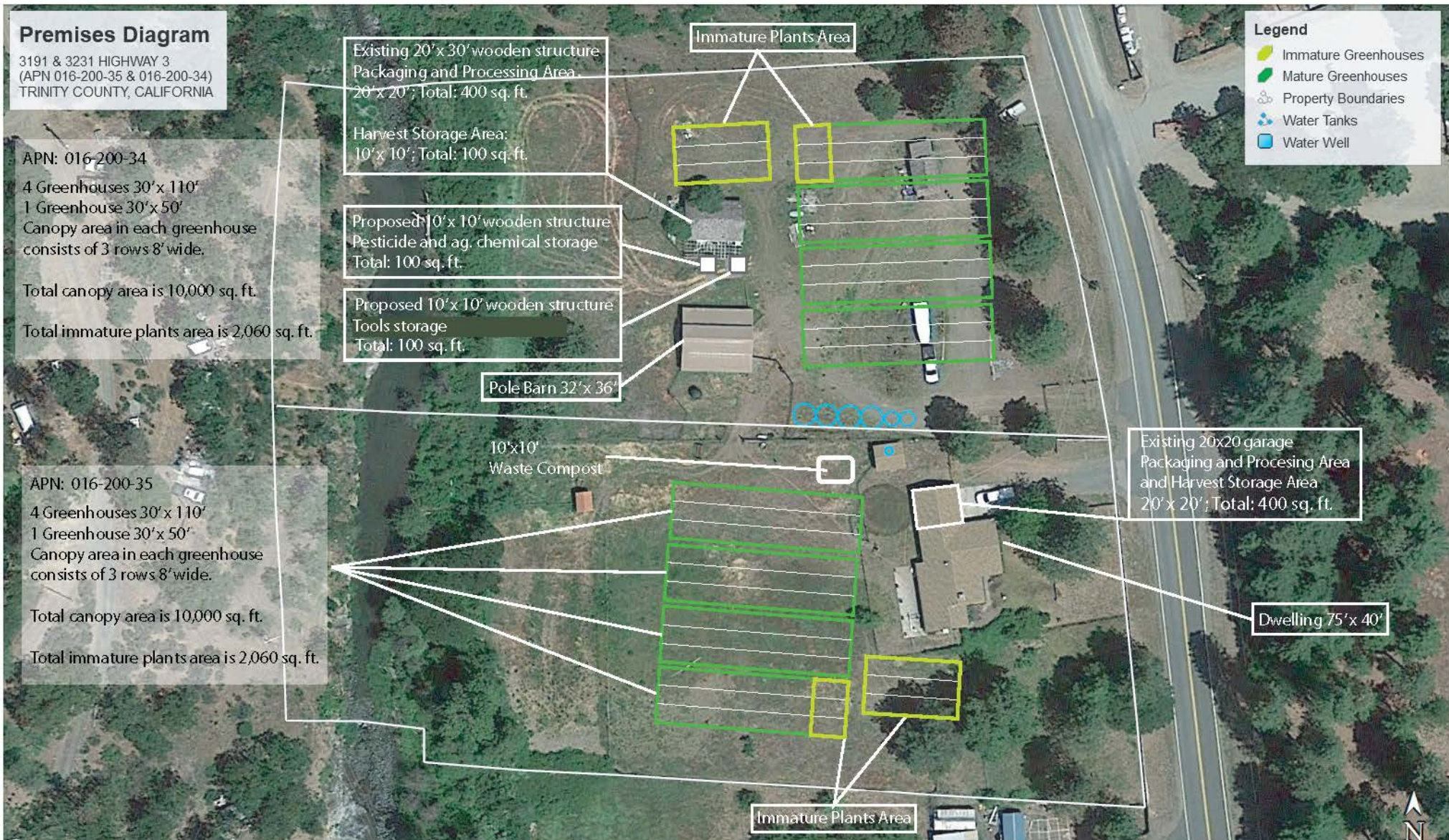
ATTACHMENTS:

1. Site Plan from Appendix C Environmental Document
2. Residential Setback Map
3. Location Map
4. Surrounding Uses Map
5. Zoning Districts Map
6. General Plan Designations Map
7. Site Visit Photos
8. Letter of Support from Neighbor on APN 016-200-041-000
9. PC Resolution No. 2023-14

REFERENCES:

County, T. (1988). *Trinity County General Plan, Land Use Element*. Weaverville, CA: County of Trinity.

County, T. (1996). *Hayfork Community Plan*. Weaverville, CA: Trinity County.



-Administrative Hold Area is the same as the Harvest Storage Area.

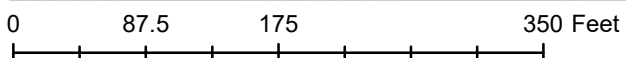


Commercial Cannabis Variance (CCV) | CCV-23-20 | CCL-729
APN 016-200-035-000
Residential Setback Map



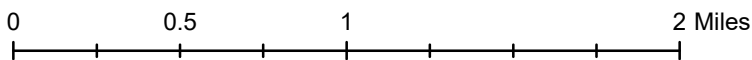
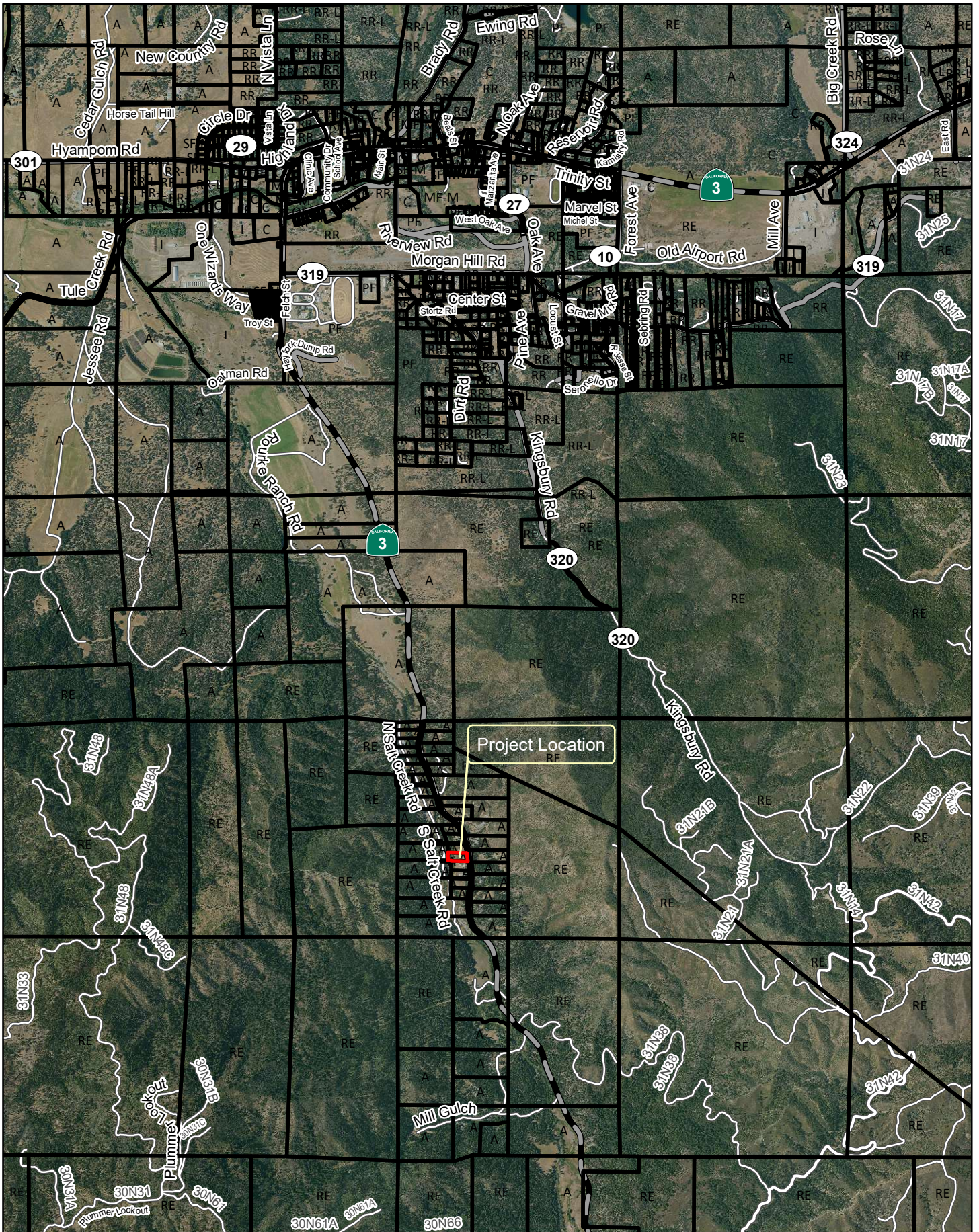
Hand-Held Rangefinder Approx. Measurement: 160ft
 Support Letter Received

Line-of-Sight Obstructed on Ground
 ArcGIS Approx. Measurement: 315ft
 No Comment



Staff Author: BH
 Date: 11/29/2023

Commercial Cannabis Variance (CCV) | CCV-23-20 | CCL-729
APN 016-200-035-000
Location Map

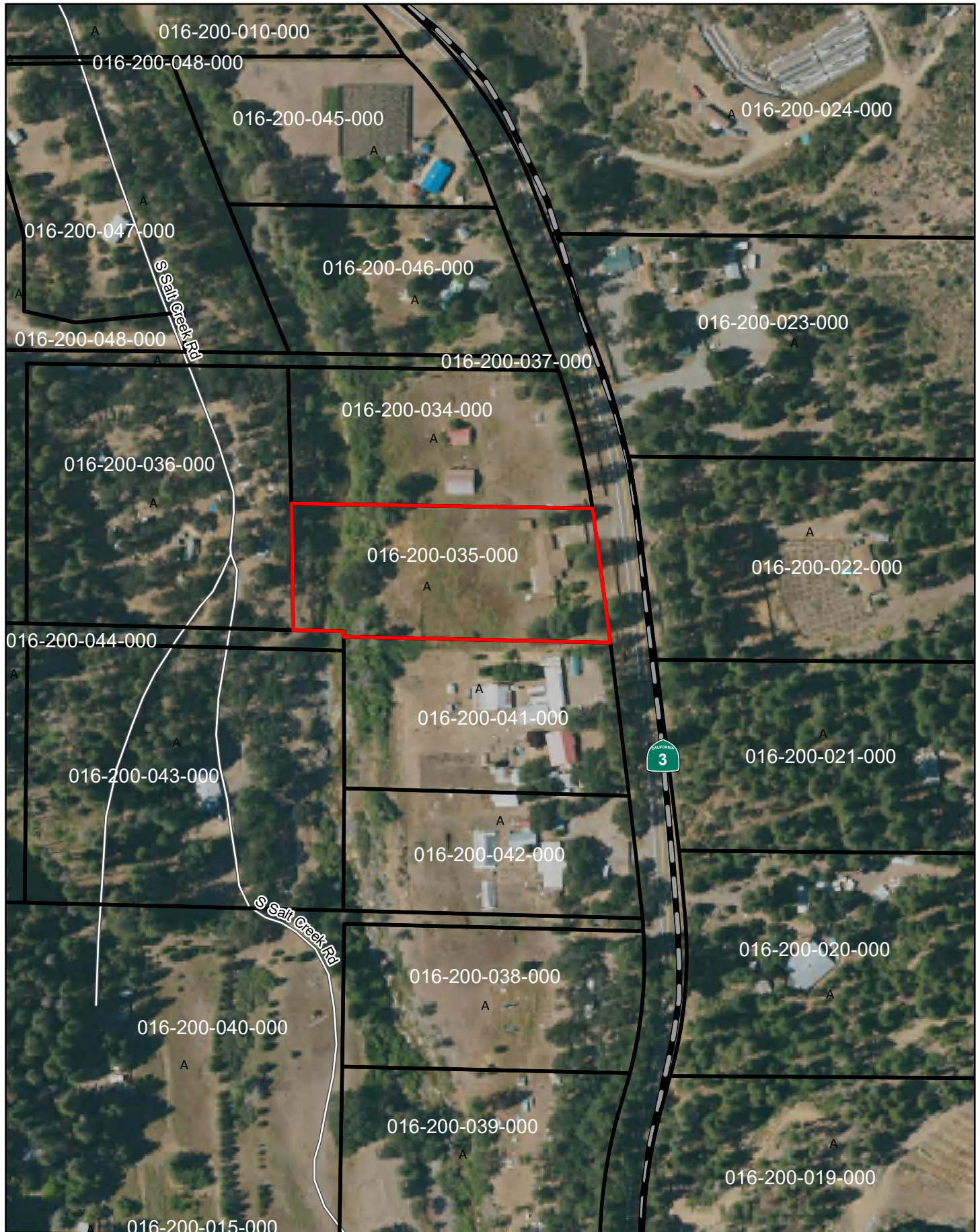


Staff Author: BH
Date: 11/29/2023

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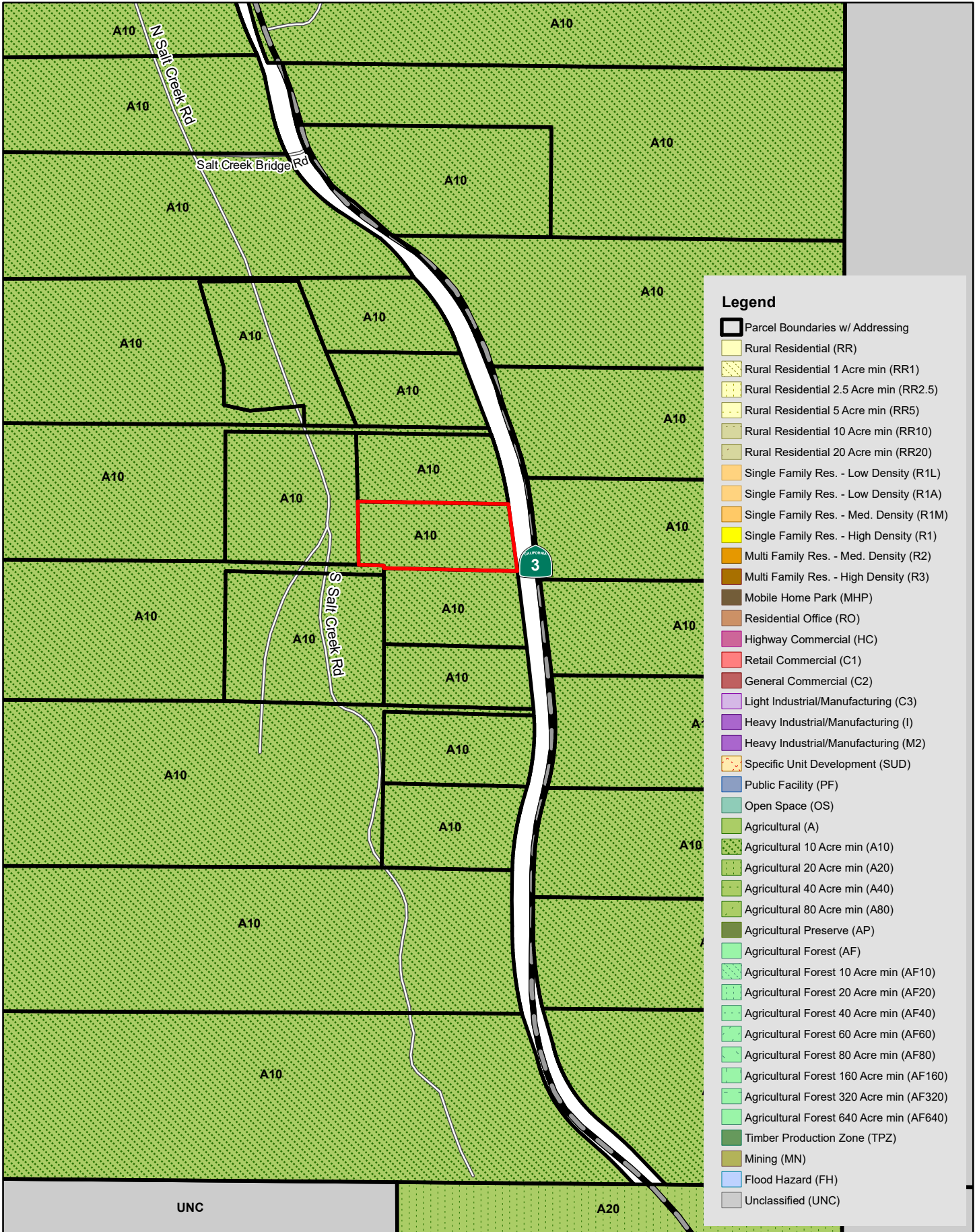
Commercial Cannabis Variance (CCV) | CCV-23-20 | CCL-729
APN 016-200-035-000
Surrounding Uses Map



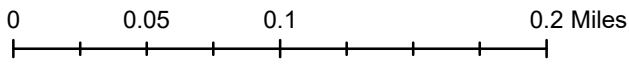
0 175 350 700 Feet

Staff Author: BH
Date: 11/29/2023

Commercial Cannabis Variance (CCV) | CCV-23-20 | CCL-729
 APN 016-200-035-000
 Zoning Districts Map



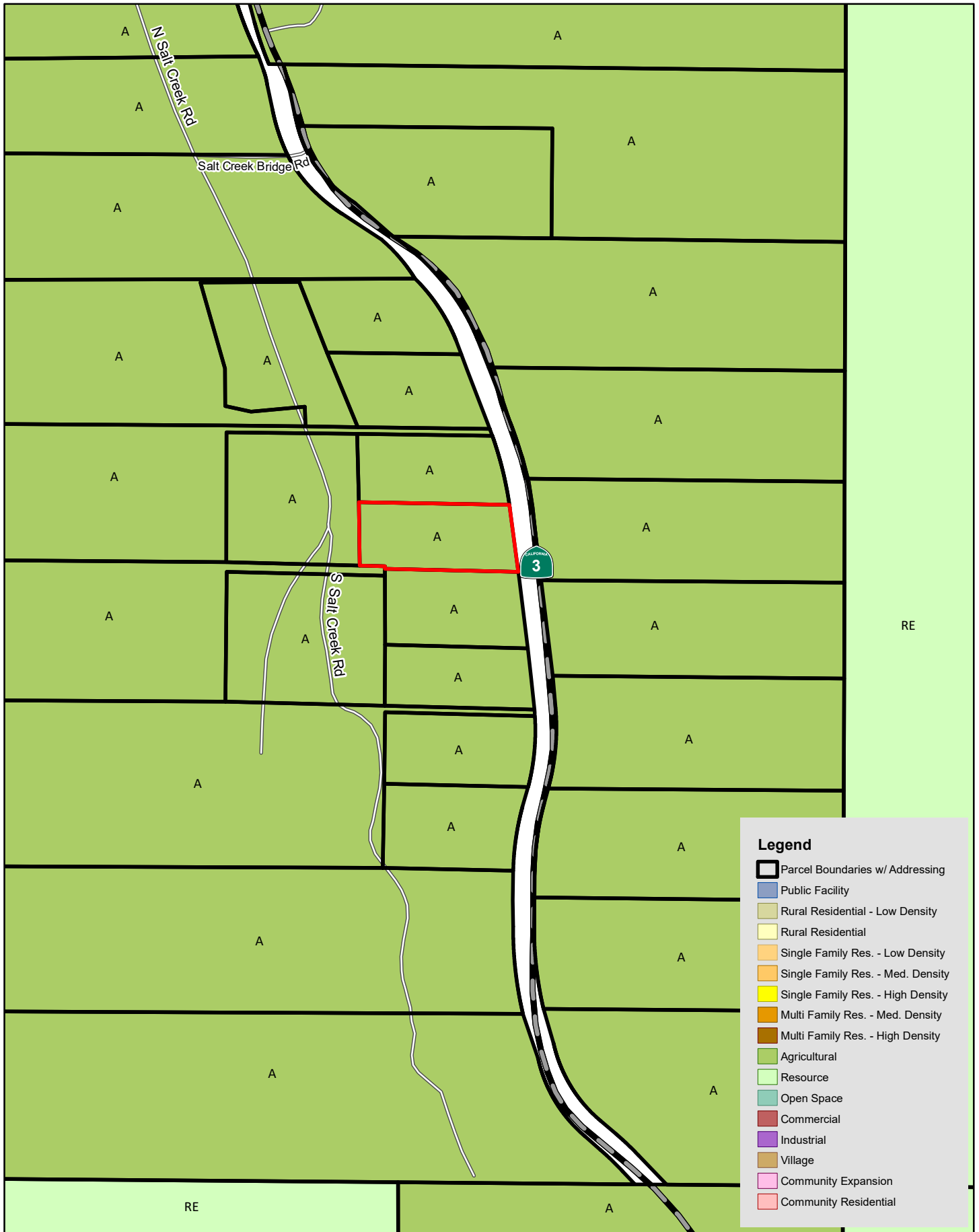
- Legend**
- Parcel Boundaries w/ Addressing
 - Rural Residential (RR)
 - Rural Residential 1 Acre min (RR1)
 - Rural Residential 2.5 Acre min (RR2.5)
 - Rural Residential 5 Acre min (RR5)
 - Rural Residential 10 Acre min (RR10)
 - Rural Residential 20 Acre min (RR20)
 - Single Family Res. - Low Density (R1L)
 - Single Family Res. - Low Density (R1A)
 - Single Family Res. - Med. Density (R1M)
 - Single Family Res. - High Density (R1)
 - Multi Family Res. - Med. Density (R2)
 - Multi Family Res. - High Density (R3)
 - Mobile Home Park (MHP)
 - Residential Office (RO)
 - Highway Commercial (HC)
 - Retail Commercial (C1)
 - General Commercial (C2)
 - Light Industrial/Manufacturing (C3)
 - Heavy Industrial/Manufacturing (I)
 - Heavy Industrial/Manufacturing (M2)
 - Specific Unit Development (SUD)
 - Public Facility (PF)
 - Open Space (OS)
 - Agricultural (A)
 - Agricultural 10 Acre min (A10)
 - Agricultural 20 Acre min (A20)
 - Agricultural 40 Acre min (A40)
 - Agricultural 80 Acre min (A80)
 - Agricultural Preserve (AP)
 - Agricultural Forest (AF)
 - Agricultural Forest 10 Acre min (AF10)
 - Agricultural Forest 20 Acre min (AF20)
 - Agricultural Forest 40 Acre min (AF40)
 - Agricultural Forest 60 Acre min (AF60)
 - Agricultural Forest 80 Acre min (AF80)
 - Agricultural Forest 160 Acre min (AF160)
 - Agricultural Forest 320 Acre min (AF320)
 - Agricultural Forest 640 Acre min (AF640)
 - Timber Production Zone (TPZ)
 - Mining (MN)
 - Flood Hazard (FH)
 - Unclassified (UNC)



Staff Author: BH
 Date: 11/29/2023

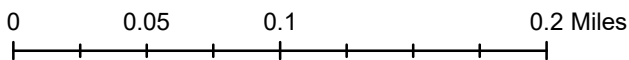
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Commercial Cannabis Variance (CCV) | CCV-23-20 | CCL-729
 APN 016-200-035-000
 GPD Map



Legend

- Parcel Boundaries w/ Addressing
- Public Facility
- Rural Residential - Low Density
- Rural Residential
- Single Family Res. - Low Density
- Single Family Res. - Med. Density
- Single Family Res. - High Density
- Multi Family Res. - Med. Density
- Multi Family Res. - High Density
- Agricultural
- Resource
- Open Space
- Commercial
- Industrial
- Village
- Community Expansion
- Community Residential



Staff Author: BH
 Date: 11/29/2023

Attachment 7 – Site Visit Photos



View of Residential Structure on APN 016-200-041-000 Approx. 165ft



Current Site Conditions

Name: Gail Burk

Address: 3151 State Hwy 3

Hayfork, CA 96041

Date: 4/26/2022

To Whom It May Concern:

I, Gail Burk, the owner of the property located on 3151 State Hwy 3, Hayfork, CA 96041 (APN: 016-200-41), adjacent to Anastasia Romanova owned property (APN: 016-210-35) located on 3191 State Hwy 3, Hayfork, CA 96041, grant support and have no objections to the variance sought by Anastasia Romanova for the property located on 3191 State Hwy 3, Hayfork, CA 96041. Furthermore, I understand that cannabis cultivation and related activities may occur on the property seeking variance and have no objections to such cultivation and activities.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Gail Burk 4-26-22

Gail Burk

RESOLUTION NO. PC-2023-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF TRINITY

**Approving an Initial Commercial Cannabis Variance
(Anastasia Romanova (CCV-2023-20))**

WHEREAS, the Trinity County Planning Department has considered a request for an initial commercial cannabis variance, filed by Anastasia Romanova, in accordance with Title 17, Trinity County Zoning Code Section 17.43.050A(8),

WHEREAS, for specialty cottage, specialty, and small licenses, cultivation shall not be allowed within three hundred fifty feet of a residential structure on any adjoining parcels unless an initial variance is obtained by approval of the Trinity County Planning Commission,

WHEREAS, approved or conditionally approved commercial cannabis variances are subject to annual renewal by the Planning Director through the director's use permit process, and

WHEREAS, the Planning Commission held a public hearing and considered this matter at the regular meeting held on December 14, 2023,

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the County of Trinity:

1. The approval of this project is a "later activity" associated with the Cannabis Program EIR, as defined by subsection (c) of Section 15168, in that (i) all impacts associated with the approval of this project are within the scope of environmental review previously studied, and (ii) the requirements and mitigations required by Chapter 17.43 and 17.43G of the Trinity County Code, adequately serve to mitigate the impacts associated with approval of this project, it adequately evaluates all potential environmental impacts, and can be appropriately tiered within the Trinity County Cannabis Programmatic Environmental Impact Report; and
2. Makes the following findings:
 - a. The applicant will not be granted a special privilege upon the approval of the proposed commercial cannabis variance;
 - b. The approval of the proposed commercial cannabis variance is not for a variance for the use of the property;
 - c. The approval of the proposed commercial cannabis variance would not be injurious to general public welfare or to the adjacent properties;
 - d. The proposed commercial cannabis variance is not in conflict with the goals, objectives, and policies of the General Plan or any specific plans;
 - e. The project parcel is not located in a Recreation Development District (RD-1) overlay zone; and
3. Approves CCV-2023-20 to reduce the 350-foot setback requirement from the residence on APN 016-200-041-000 to approx. 160ft and from the residence on 016-200-042 to approx. 315ft, subject to the conditions set forth in Exhibit A.

DULY PASSED AND ADOPTED this Thursday, December 14, 2023 by the Planning Commission of the County of Trinity by the following vote:

Resolution No. 2023-14
December 14, 2023

AYES:
NAYS:
ABSENT:
ABSTAIN:
RECUSE:

Carol Fall, CHAIR
Planning Commission
County of Trinity
State of California

ATTEST:

By:

EDWARD PRESTLEY
Secretary of the Planning Commission
County of Trinity, State of California

EXHIBIT "A" to Resolution PC-2023-14
COMMERCIAL CANNABIS VARIANCE CONDITIONS OF APPROVAL

(A. Romanova, Commercial Cannabis Variance (CCV-23-20))

1. The commercial cannabis variance is approved for a period of one year and shall expire on the same date as the commercial cannabis license that this variance and parcel is associated with; provided, however, that the variance shall be renewed annually through the Director's Use Permit application process. The commercial cannabis renewal application shall:

1. Be submitted by the applicant or designated agent/consultant prior to expiration of the variance and preferably no later than 60 days in advance;
2. Be subject to a filing fee as specified by resolution of the Board of Supervisors;
3. Be approved, denied, or referred to the Planning Commission at the discretion of the Planning Director;

2. Structures on the property shall be in compliance with the California Building Code and Trinity County Code;

3. The applicant has the sole responsibility for renewing this commercial cannabis variance before its expiration. The County will not provide a notice prior to the expiration date;

4. No county permit or license shall be issued until the ten-day appeal period has expired. If the commercial cannabis variance approval is appealed, no county permit or license shall be issued while a commercial cannabis variance hearing or appeal is pending.

END OF CONDITIONS.